

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

PHOENIX BEVERAGES, INC., et al.,

Plaintiffs,

-against-

EXXON MOBIL CORPORATION, et al.,

Defendants.

Case No. 1:12-CV-03771 (PKC) (JO)

**ANSWER TO
THIRD-PARTY DEFENDANT NEW
YORK CITY TRANSIT AUTHORITY'S
COUNTERCLAIM AGAINST
DEFENDANT/THIRD-PARTY
PLAINTIFF
EXXON MOBIL CORPORATION**

EXXON MOBIL CORPORATION,

Third-Party Plaintiff,

-against-

ACE WASTE OIL, INC., et al.,

Third-Party Defendants.

Defendant/Third-Party Plaintiff Exxon Mobil Corporation by its attorneys as and for its Answer to the Counterclaim ("Counterclaim") of Third-Party Defendant New York City Transit Authority ("New York City Transit Authority" or "Third-Party Defendant"), states as follows:

1. To the extent the allegations contained in paragraph 59 of the Counterclaim refer to Defendant Quanta Resources, no responsive pleading is required. Furthermore, Third Party Plaintiff Exxon Mobil Corporation responds the allegations in paragraph 59 call for legal conclusions to which no response in required.

2. The allegations contained in paragraph 60 of the Third-Party Defendant's Counterclaim call for legal conclusions to which no response is required. Furthermore, to the extent the allegations refer to various rules and statutes such rules and statutes speak for themselves.

3. The allegations contained in paragraph 61 of the Third-Party Defendant's Counterclaim call for legal conclusions to which no responsive pleading is required. To the extent a responsive pleading is required Third-Party Plaintiff Exxon Mobil Corporation denies the allegations set forth in paragraph 61.

4. The allegations contained in paragraph 62 of the Third-Party Defendant's Counterclaim call for legal conclusions to which no responsive pleading is required. Moreover, to the extent the allegations refer to various statutes, such statutes speak for themselves. To the extent a responsive pleading is required; Third-Party Plaintiff Exxon Mobil Corporation denies the allegations set forth in paragraph 62.

AFFIRMATIVE DEFENSES

Third-Party Plaintiff Exxon Mobil Corporation adopts and incorporates by reference the affirmative defenses pleaded in its Answer to the Complaint and incorporates by reference the affirmative defenses pleaded by all other parties.

WHEREFORE, Third-Party Plaintiff Exxon Mobil Corporation demands judgment against New York Transit Authority as follows:

- a) dismissing New York Transit Authority's Counterclaim;

- b) awarding Third-Party Plaintiff Exxon Mobil Corporation its reasonable attorneys' fees;
- c) awarding Third-Party Plaintiff Exxon Mobil Corporation its cost of suit; and
- d) such other relief as the Court shall deem just and equitable.

Dated: October 9, 2013
New York, New York

MCCUSKER, ANSELMI, ROSEN &
CARVELLI, P.C.

By:

/s/

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